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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,542	01/17/2002	Dario Gristina	112439.120	9650
28089	7590	03/10/2005	EXAMINER	
WILMER CUTLER PICKERING HALE AND DORR LLP 399 PARK AVENUE NEW YORK, NY 10022			KIM, PAUL L	
			ART UNIT	PAPER NUMBER
			2857	

DATE MAILED: 03/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/051,542	<b>Applicant(s)</b> GRISTINA ET AL.	
	<b>Examiner</b> Paul Kim	<b>Art Unit</b> 2857	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-65, 90-100 and 133-144 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-41, 90-100 and 133-144 is/are allowed.
- 6) ☒ Claim(s) 42-44, 46-56 and 58-65 is/are rejected.
- 7) ☒ Claim(s) 45 and 57 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 42-44, 46-48, and 53 are rejected under 35 U.S.C. 102(b) as being anticipated by Pitchford et al.

With regard to claim 42, Pitchford et al teaches a method for monitoring resource consumption for one building comprising: acquiring resource consumption, delivery, and mechanical equipment data for the building through monitoring devices associated with the building's resource delivery structure (fig. 1A, part 14), storing consumption, delivery, and equipment data acquired from the building (fig. 1A, part 23), generating resource consumption bills on a metered basis (fig. 3, part 310), and automatically determining resource consumption for the building by a management resource system based on the acquired consumption, delivery, and equipment data (fig. 3, part 320).

With regard to claim 43, Pitchford et al teaches acquiring electrical load data for delivery and utilization structures and mechanical equipment (fig. 3).

With regard to claim 44, Pitchford et al teaches sending an alert when loads are outside specifications (fig. 2B, part 30).

With regard to claim 46, Pitchford et al teaches converting stored data into database information (fig. 1B, part 23).

With regard to claim 47, Pitchford et al teaches a graphical user interface being used resource consumption data (fig 2B, part 30).

With regard to claim 48, Pitchford et al teaches determining resource consumption being localized to a resource utilization structure within the building (col. 4, lines 14-19).

With regard to claim 53, Pitchford et al teaches monitoring the security of at least one building (fig 1B, part 36).

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 54-56, 58-63, and 65 rejected under 35 U.S.C. 102(b) as being anticipated by Budike.

With regard to claim 54, Budike teaches a computer-implemented method for generating real time resource consumption for a building comprising: receiving input from at least one data collection and processing device (fig. 1, part 10), processing input from the device (fig. 1, part 20), sending instructions based on the processed input to a building management resource system to automatically set resource consumption for

the building (col. 7, lines 56-66), and generating resource consumption bills on a tenant basis (figs 6-10).

With regard to claim 55, Budike teaches acquiring electrical load data for the equipment and delivery structures (fig. 4, part 113).

With regard to claim 56, Budike teaches sending alerts when loads are outside specifications (fig. 3, part 79).

With regard to claim 58, Budike teaches converting resource consumption for the building into a database (fig. 2, part 10).

With regard to claim 59, Budike teaches providing a graphical user interface to allow users to access resource consumption data (figs. 5-25).

With regard to claim 60, Budike teaches resource consumption data for the building localized to a resource utilization structure within the building (fig. 2, parts 3-17).

With regard to claim 61, Budike teaches determining resource consumption and delivery based on market price (fig. 3, part 65).

With regard to claim 62 and 63, Budike teaches trading resources with other providers based on usage patterns (col. 8, lines 1-5).

With regard to claim 65, Budike teaches monitoring the security of at least one building (fig. 1, part 20).

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5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 49-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pitchford et al in view of Budike.

Pitchford et al does not specify trading resources with other resource providers. Budike teaches a utility monitoring system that allows various utilities to be purchased through a network (col. 8, lines 1-5). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify Pitchford et al, so that resources could be traded, as taught by Budike, so as to derive the benefit of cost savings by being able to choose a low cost provider.

7. Claim 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pitchford et al in view of Cmar.

Pitchford et al teaches measuring energy usage demands but does not specify forecasting the demands. Cmar teaches a method of forecasting energy demands based on energy usage patterns for a building (col. 1, lines 15-20). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify Pitchford et al, so that energy resource consumption could be predicted, as taught by Cmar, so as to derive the benefit of cost savings by being able to plan which equipment to use ahead of time.

8. Claim 64 is rejected under 35 U.S.C. 103(a) as being unpatentable over Budike in view of Cmar.

Budike teaches measuring energy usage but does not specify forecasting energy demand or resource costs. Cmar teaches a method of forecasting energy demands based on energy usage patterns for a building (col. 1, lines 15-20). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify Budike, so that energy resource consumption could be predicted, as taught by Cmar, so as to derive the benefit of cost savings by being able to plan which equipment to use ahead of time.

***Allowable Subject Matter***

9. Claims 1-41, 90-100, and 133-144 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record does not teach a method of monitoring the resource consumption of a building in real-time that comprises a one or more monitoring devices for a building, database storing infrastructure and field survey data of the building, and a management system which uses collected data in determining resource consumption of the building. Instead the prior art teaches uses monthly billing data in determining energy consumption.

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Claims 45 and 57 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

10. Applicant's arguments with respect to claims 42-65 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Smith et al teaches a system and method for energy management.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Kim whose telephone number is 571-272-2217. The examiner can normally be reached on Monday-Thursday 10:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 571-272-2216. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and for After Final communications.




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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

PK

March 4, 2005

  
MARC S. HOFF  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800